

Dear Justice Committee Member,

We are writing as co-chairs of SCOT-PEP to urge the Justice Committee to reject the request from Rhoda Grant MSP (contained within her paper 'Statement of Reasons why Consultation is Unnecessary') to accept her draft proposal without a consultation document. This 'statement of reasons' relates to her proposed members Bill, the 'Criminalisation of the Purchase of Sex (Scotland) Bill.'

The original consultation, carried out by Trish Godman, and her proposal, were poorly researched, deeply biased and heavily influenced by a very small, very vocal special interest lobby. The majority of references were drawn from a handful of websites, replicating statistical errors and misquotes, clearly indicating that no work had been done to verify, or even read, source material. It appears that any research that was used was neither evidence-based, academically rigorous, nor peer-reviewed. There exists a large body of evidence against the criminalisation of sex work, none of which was used or referenced. The resulting "Background" to the consultation was extremely misleading. Dr Linda Cusick, a Reader in Substance Use at the University of the West of Scotland, summarised the tone of the consultation as "based on false premises and biased statements including sexist and paternalistic notions which have no place in a modern legislation."¹

The consultation process itself was flawed, in that it was not possible to express a dissenting opinion within the parameters of the consultation itself. Respondents were invited to agree with criminalising either the purchaser, the seller or both, with no option in favour of the status quo or decriminalisation. Dr Jane Scoular, a Reader at the School of Law at the University of Strathclyde and a member of the Scottish Parliament's Expert Panel on Prostitution, stated in her response to the consultation that "Most of the questions ... give a choice between solutions which in most cases can only be considered as bad..."²

Trish Godman's consultation dwelled extensively on the links between human trafficking and sex work, in spite of guidance from the Joint United Nations Programme on HIV/AIDS (UNAIDS), available at the time, that specifically and strongly states that trafficking in persons for any purpose, including commercial sexual exploitation, should never be implicitly or explicitly conflated with sex work.³ Since the initial consultation, the Global Alliance against Traffic in Women (GAATW), an alliance of 106 NGOs around the world that holds special consultative status to the Economic and Social Council of the United Nations, released a report in 2011, strongly criticising "end demand" approaches such as criminalisation of clients.⁴

Furthermore, Rhoda Grant claims that views have not changed since the time of the initial consultation period; this is based on a meeting that was held on the 17th of January 2011, immediately after Trish Godman's consultation deadline. This meeting was held behind closed doors with a select group of stakeholders and interested organisations; no sex worker-led organisations were invited. SCOT-PEP was neither notified of nor invited to this meeting, no minutes or notes of record were taken, and

¹ Linda Cusick, Response 6, Consultation Responses: Criminalisation of the Purchase and Sale of Sex (Scotland) Bill (Edinburgh, 2011).

² Jane Scoular, Response 73, Consultation Responses: Criminalisation of the Purchase and Sale of Sex (Scotland) Bill (Edinburgh, 2011).

³ UNAIDS, Guidance Note on HIV and Sex Work (Geneva, 2009) 14.

⁴ GAATW, Moving Beyond 'Supply and Demand' Catchphrases: Assessing the uses and limitations of demand-based approaches in anti-trafficking (Bangkok, 2011).

Rhoda Grant has refused to provide details of the attendees⁵. Rhoda Grant claims to have an on-going engagement with "a number of bodies, the public and others with an interest in this proposal", yet has never sought the views of the genuine stakeholders, the sex workers themselves. There are a number of groups that represent sex workers within Scotland and the UK, including SCOT-PEP, the International Union of Sex Workers and the UK Network of Sex Work Projects.

Rhoda Grant states that she is unaware of any major policy developments or changes in relation to the purchase of sex in Scotland since the end of the consultation period. In fact there have been several. In 2011 the Equality and Human Rights Commission released their report into Human Trafficking in Scotland; in her introductory comments Baroness Kennedy QC stated that "banning [prostitution] ... was both unworkable in law and in practice."⁶

In December 2011 the UNAIDS Advisory Group on HIV and Sex Work released their report to accompany the UNAIDS Guidance Note on HIV and Sex Work (2009). This resource was officially launched in December 2011 at the UNAIDS Secretariat in Geneva, during the 29th meeting of the UNAIDS Programme Coordinating Board and has now been published by UNAIDS, and states:

"States should move away from criminalising sex work or activities associated with it. Decriminalisation of sex work should include removing criminal penalties for purchase and sale of sex, management of sex workers and brothels, and other activities related to sex work."⁷

This echoes the repeated calls for decriminalisation from the UN Secretary General Ban Ki-Moon and UNAIDS, which in 2010 (published 2011) stated that reducing by half the number of "countries with punitive laws and practises around HIV transmission, sex work, drug use or homosexuality" was an agency goal by 2015.⁸

In light of the deeply flawed nature of the original consultation, lack of adequate engagement with key stakeholders and major international policy developments, Trish Godman's consultation does not form an acceptable basis for a draft proposal. We respectfully request that the Justice Committee refuses Rhoda Grant's request to progress without further consultation.

Yours sincerely,

Sarah Woodbury & George Lewis
Co-Chairs
SCOT-PEP

⁶ Helena Kennedy QC, Introduction to the Inquiry into Human Trafficking in Scotland (Equality and Human Rights Commission, 2011) 12.

⁷ UNAIDS Advisory Group on HIV and Sex Work, Report of the UNAIDS Advisory Group on HIV and Sex Work (Geneva, 2011) 8.

⁸ UNAIDS, Getting to Zero (Geneva, 2010) 7.